

106TH CONGRESS
1ST SESSION

S. 1718

To amend the Internal Revenue Code of 1986 to provide a credit for medical research related to developing vaccines against widespread diseases.

IN THE SENATE OF THE UNITED STATES

OCTOBER 12, 1999

Mr. KERRY (for himself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for medical research related to developing vaccines against widespread diseases.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lifesaving Vaccine
5 Technology Act of 1999”.

6 **SEC. 2. CREDIT FOR MEDICAL RESEARCH RELATED TO DE-**
7 **VELOPING VACCINES AGAINST WIDESPREAD**
8 **DISEASES.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-
10 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business related credits) is amended by
 2 adding at the end the following new section:

3 **“SEC. 45D. CREDIT FOR MEDICAL RESEARCH RELATED TO**
 4 **DEVELOPING VACCINES AGAINST WIDE-**
 5 **SPREAD DISEASES.**

6 “(a) GENERAL RULE.—For purposes of section 38,
 7 the vaccine research credit determined under this section
 8 for the taxable year is an amount equal to 30 percent of
 9 the qualified vaccine research expenses for the taxable
 10 year.

11 “(b) QUALIFIED VACCINE RESEARCH EXPENSES.—
 12 For purposes of this section—

13 “(1) QUALIFIED VACCINE RESEARCH EX-
 14 PENSES.—

15 “(A) IN GENERAL.—Except as otherwise
 16 provided in this paragraph, the term ‘qualified
 17 vaccine research expenses’ means the amounts
 18 which are paid or incurred by the taxpayer dur-
 19 ing the taxable year which would be described
 20 in subsection (b) of section 41 if such sub-
 21 section were applied with the modifications set
 22 forth in subparagraph (B).

23 “(B) MODIFICATIONS.—For purposes of
 24 subparagraph (A), subsection (b) of section 41
 25 shall be applied—

1 “(i) by substituting ‘vaccine research’
 2 for ‘qualified research’ each place it ap-
 3 pears in paragraphs (2) and (3) of such
 4 subsection, and

5 “(ii) by substituting ‘75 percent’ for
 6 ‘65 percent’ in paragraph (3)(A) of such
 7 subsection.

8 “(C) EXCLUSION FOR AMOUNTS FUNDED
 9 BY GRANTS, ETC.—The term ‘qualified vaccine
 10 research expenses’ shall not include any amount
 11 to the extent such amount is funded by any
 12 grant, contract, or otherwise by another person
 13 (or any governmental entity).

14 “(2) VACCINE RESEARCH.—The term ‘vaccine
 15 research’ means research to develop vaccines and
 16 microbicides for—

17 “(A) malaria,

18 “(B) tuberculosis, or

19 “(C) HIV.

20 “(c) COORDINATION WITH CREDIT FOR INCREASING
 21 RESEARCH EXPENDITURES.—

22 “(1) IN GENERAL.—Except as provided in para-
 23 graph (2), any qualified vaccine research expenses
 24 for a taxable year to which an election under this
 25 section applies shall not be taken into account for

1 purposes of determining the credit allowable under
2 section 41 for such taxable year.

3 “(2) EXPENSES INCLUDED IN DETERMINING
4 BASE PERIOD RESEARCH EXPENSES.—Any qualified
5 vaccine research expenses for any taxable year which
6 are qualified research expenses (within the meaning
7 of section 41(b)) shall be taken into account in de-
8 termining base period research expenses for pur-
9 poses of applying section 41 to subsequent taxable
10 years.

11 “(d) SPECIAL RULES.—

12 “(1) LIMITATIONS ON FOREIGN TESTING.—No
13 credit shall be allowed under this section with re-
14 spect to any vaccine research (other than human
15 clinical testing) conducted outside the United States
16 by any entity which is not registered with the Sec-
17 retary.

18 “(2) CERTAIN RULES MADE APPLICABLE.—
19 Rules similar to the rules of paragraphs (1) and (2)
20 of section 41(f) shall apply for purposes of this sec-
21 tion.

22 “(3) ELECTION.—This section (other than sub-
23 section (e)) shall apply to any taxpayer for any tax-
24 able year only if such taxpayer elects to have this
25 section apply for such taxable year.

1 “(e) SHAREHOLDER EQUITY INVESTMENT CREDIT
2 IN LIEU OF RESEARCH CREDIT.—

3 “(1) IN GENERAL.—For purposes of section 38,
4 the vaccine research credit determined under this
5 section for the taxable year shall include an amount
6 equal to 20 percent of the amount paid by the tax-
7 payer to acquire qualified research stock in a cor-
8 poration if—

9 “(A) the amount received by the corpora-
10 tion for such stock is used within 18 months
11 after the amount is received to pay qualified
12 vaccine research expenses of the corporation for
13 which a credit would (but for subparagraph (B)
14 and subsection (d)(3)) be determined under this
15 section, and

16 “(B) the corporation waives its right to the
17 credit determined under this section for the
18 qualified vaccine research expenses which are
19 paid with such amount.

20 “(2) QUALIFIED RESEARCH STOCK.—For pur-
21 poses of paragraph (1), the term ‘qualified research
22 stock’ means any stock in a C corporation—

23 “(A) which is originally issued after the
24 date of the enactment of the Lifesaving Vaccine
25 Technology Act of 1999,

1 “(B) which is acquired by the taxpayer at
 2 its original issue (directly or through an under-
 3 writer) in exchange for money or other property
 4 (not including stock), and

5 “(C) as of the date of issuance, such cor-
 6 poration meets the gross assets tests of sub-
 7 paragraphs (A) and (B) of section 1202(d)(1).”

8 (b) INCLUSION IN GENERAL BUSINESS CREDIT.—

9 (1) IN GENERAL.—Section 38(b) of the Internal
 10 Revenue Code of 1986 (relating to current year
 11 business credit) is amended by striking “plus” at the
 12 end of paragraph (11), by striking the period at the
 13 end of paragraph (12) and inserting “, plus”, and
 14 by adding at the end the following new paragraph:

15 “(13) the vaccine research credit determined
 16 under section 45D.”.

17 (2) TRANSITION RULE.—Section 39(d) of such
 18 Code (relating to transitional rules) is amended by
 19 adding at the end the following new paragraph:

20 “(9) NO CARRYBACK OF SECTION 45D CREDIT
 21 BEFORE ENACTMENT.—No portion of the unused
 22 business credit for any taxable year which is attrib-
 23 utable to the vaccine research credit determined
 24 under section 45D may be carried back to a taxable

1 year ending before the date of the enactment of sec-
 2 tion 45D.”.

3 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of
 4 the Internal Revenue Code of 1986 (relating to certain
 5 expenses for which credits are allowable) is amended by
 6 adding at the end the following new subsection:

7 “(d) CREDIT FOR QUALIFIED VACCINE RESEARCH
 8 EXPENSES.—

9 “(1) IN GENERAL.—No deduction shall be al-
 10 lowed for that portion of the qualified vaccine re-
 11 search expenses (as defined in section 45D(b)) oth-
 12 erwise allowable as a deduction for the taxable year
 13 which is equal to the amount of the credit deter-
 14 mined for such taxable year under section 45D(a).

15 “(2) CERTAIN RULES TO APPLY.—Rules similar
 16 to the rules of paragraphs (2), (3), and (4) of sub-
 17 section (c) shall apply for purposes of this sub-
 18 section.”.

19 (d) DEDUCTION FOR UNUSED PORTION OF CRED-
 20 IT.—Section 196(c) of the Internal Revenue Code of 1986
 21 (defining qualified business credits) is amended by strik-
 22 ing “and” at the end of paragraph (7), by striking the
 23 period at the end of paragraph (8) and inserting “, and”,
 24 and by adding at the end the following new paragraph:

1 “(9) the vaccine research credit determined
 2 under section 45D(a) (other than such credit deter-
 3 mined under the rules of section 280C(d)(2)).”.

4 (e) CLERICAL AMENDMENT.—The table of sections
 5 for subpart D of part IV of subchapter A of chapter 1
 6 of the Internal Revenue Code of 1986 is amended by add-
 7 ing at the end the following new item:

“Sec. 45D. Credit for medical research related to developing vac-
 cines against widespread diseases.”.

8 (f) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to taxable years ending after the
 10 date of the enactment of this Act.

11 (g) DISTRIBUTION OF VACCINES DEVELOPED USING
 12 CREDIT.—It is the sense of Congress that if a tax credit
 13 is allowed under section 45D of the Internal Revenue Code
 14 of 1986 to any corporation or shareholder of a corporation
 15 by reason of vaccine research expenses incurred by the
 16 corporation in the development of a vaccine, such corpora-
 17 tion should certify to the Secretary of the Treasury that,
 18 within 1 year after that vaccine is first licensed, such cor-
 19 poration will establish a good faith plan to maximize inter-
 20 national access to high quality and affordable vaccines.

21 (h) STUDY.—The Secretary of the Treasury, in con-
 22 sultation with the Institute of Medicine, shall conduct a
 23 study of the effectiveness of the credit under section 45D
 24 of the Internal Revenue Code of 1986 in stimulating vac-

1 cine research. Not later than the date which is 4 years
2 after the date of the enactment of this Act, the Secretary
3 shall submit to the Congress the results of such study to-
4 gether with any recommendations the Secretary may have
5 to improve the effectiveness of such credit in stimulating
6 vaccine research.

7 **SEC. 3. SENSE OF CONGRESS.**

8 (a) ACCELERATION OF INTRODUCTION OF PRIORITY
9 VACCINES.—It is the sense of Congress that the President
10 and Federal agencies (including the Department of State,
11 the Department of Health and Human Services, and the
12 Department of the Treasury) should work together in vig-
13 orous support of the creation and funding of a multi-lat-
14 eral, international effort, such as a vaccine purchase fund,
15 to accelerate the introduction of vaccines to which the tax
16 credit under section 45D of the Internal Revenue Code
17 of 1986 applies and of other priority vaccines into the
18 poorest countries in the world.

19 (b) FLEXIBLE PRICING.—It is the sense of Congress
20 that flexible or differential pricing for vaccines, providing
21 lowered prices for the poorest countries, is one of several
22 valid strategies to accelerate the introduction of vaccines
23 in developing countries.

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